IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

O.S. APPEAL NO.478 OF 2006
IN
WRIT PETITION NO.754 OF 2006

Godrej &Boyce Manufacturing Company Limited .. Appellant
v/s.
Suhas Hari Bhalerao .. Respondent

Mr. J.P. Cama, senior counsel with Ms. Sushama Joshi i/by M/s. Haresh Mehta & Co. for the appellant.

Mr. P.M. Mokashi for the respondent.

ALONGWITH

APPEAL NO.660 OF 2006
IN
WRIT PETITION NO.833 OF 2006

Suhas Hari Bhalerao .. Appellant
v/s.
Godrej & Boyce Manufacturing Co.Ltd. .. Respondent

Mr. P.M. Mokashi for the appellant.

Mr. J.P. Cama, senior counsel with Ms. Sushama Joshi i/by M/s. Haresh Mehta & Co. for the respondent.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 10TH OCTOBER, 2006.

P.C.

On October 3, 2006, we passed the following order:-

"1. During the course of Motin hearing, senior counsel and the counsel for the parties submitted that since both the parties are dissatisfied with the impugned order, both the appeals be admitted and disposed of at the admission stage by remitting the two Writ Petitions, viz., Writ Petition No.754 of 2006 and Writ Petition No.833 of 2006 preferred by the employer and the workman, respectively. However, Mr. J.P. Cama, senior counsel for the employer, submitted that while remitting the two Writ Petitions to the learned Single Judge, the operation of the impugned award dated 19.7.2005 passed by the 3rd Labour Court, Mumbai, be stayed.

2. On the other hand, Mr. P.M. Mokashi, the counsel for the workman, submitted that if the impugned award to the extent reinstatement has been granted is to be stayed, the employer must pay the last drawn wages to the workman as the workman is not gainfully employed anywhere. Mr. P.M. Mokashi appearing for the workman submitted that this aspect was highlighted in Writ Petition No.833 of 2006 preferred by the workman. However, Mr. J.P. Cama, senior counsel for the employer, submitted that the relief sought for by the workman is, in fact, relatable to section 17B of the Industrial Disputes Act, 1947 and for that purpose, the workman must file an appropriate affidavit.

3. Confronted with the objection of Mr. J.P. Cama, Mr. P.M. Mokashi prays for some time for filing the affidavit of the workman that he is not gainfully employed anywhere.

4. Let both the appeals come up for consideration on 10.10.2006."

2. The employee has filed an affidavit on 5th October, 2006 stating therein that after his dismissal from service, he has not been gainfully employed anywhere till date and has no independent source of income.

3. As indicated in our order dated October 3, 2006 and agreed to by the senior counsel and the counsel for the parties, without prejudice to their contentions in the writ petitions (754 of 2006 and 833 of 2006), we set aside the order dated 3rd April, 2006 and restore the aforesaid two writ petitions for fresh consideration and hearing by the learned Single Judge.

4. The judgment and award dated 19th July, 2005 passed in Reference I.D. No.59 of 2002 shall remain stayed subject to the following conditions:-

(i) The arrears of last drawn wages from the date of publication of award until 31st October, 2006 shall be paid by the employer to the workman within four weeks from today.

(ii) The last drawn wages for the months from November, 2006 until March, 2007 shall be paid every month on/or before 7th of each succeeding month and for 19 days in the month of April, the payment shall be made by 25th April, 2007.

(iii) Since the workman would have

superannuated in the month of April, 2007, had he not been dismissed from service, we request the Single Judge to hear and decide the writ petition as early as possible and preferably before February, 2007.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)